



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 54

[GN Docket No. 20-32, WT Docket No. 10-208 (closed); FCC 20-52; FRS 16722]

Establishing a 5G Fund for Rural America; Universal Service Reform – Mobility Fund

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) summarizes the Commission's Order in GN Docket No. 20-32, adopted on April 23, 2020 and released on April 24, 2020 and its directive regarding methodologies for use of an adjustment factor and for disaggregation of legacy high-cost support for mobile carriers and to implement those methodologies to the extent such action is supported by the resulting record and the outcome of the 5G Fund proceeding. The Commission also announces the closing of WT Docket No. 10-208 and makes administrative amendments to the Commission's rules to clarify the Office of Economics and Analytics' functions and delegated authority.

DATES: Effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Kelly A. Quinn, Office of Economics and Analytics, (202) 418-0660.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s Order in GN Docket No. 20-32, adopted on April 23, 2020 and released on April 24, 2020 (*Order*). The full text of the *Order* is available for public inspection during regular business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street SW, Washington, DC 20554, except when Commission Headquarters is otherwise closed to visitors. See Public Notice, *Restrictions on Visitors to FCC Facilities*, that appeared on the Commission website March 12, 2020, or by using the search function on the Commission’s ECFS webpage at <https://www.fcc.gov/ecfs/>. It is also available on the Commission’s website at <https://www.fcc.gov/document/fcc-proposes-5g-fund-rural-america-0>. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

A. Directive Regarding an Adjustment Factor

1. In the 5G Fund notice of proposed rulemaking (*5G Fund NPRM*), 85 FR 31616, May 26, 2020, adopted concurrently with the *Order*, the Commission proposes to use an adjustment factor to promote better distribution of limited high-cost universal service funds in a 5G Fund auction, and to incorporate an adjustment factor into its proposed framework to disaggregate legacy high-cost support for competitive ETCs and transition to support under the 5G Fund. Consistent with their existing authority concerning the distribution of universal service support, the *Order* directs the Office of Economics and Analytics and the Wireline Competition Bureau to propose and seek comment on (1) adjustment factor values and the underlying methodologies that could be used to develop them; and (2) a process by which the adjustment factor could be applied to the disaggregation of legacy support consistent with the use of such a factor as proposed in the *5G Fund NPRM*.

2. The *Order* further directs the Office of Economics and Analytics and Wireline Competition Bureau to establish adjustment factor values and a process by which to apply an

adjustment factor to the disaggregation of support that are supported by the record established in response to their proposals, provided such action is consistent with the actions that the Commission takes in the 5G Fund proceeding (GN Docket No. 20-32). Following any such action to establish an adjustment factor value and process by which to apply it to the disaggregation of legacy support, the *Order* also directs the Office of Economics and Analytics and Wireline Competition Bureau to resolve any disputes regarding attribution of legacy support and, once the disaggregation process is completed, to release a public notice detailing the disaggregated support.

B. Closing WT Docket No. 10-208

3. WT Docket No. 10-208 was opened in 2010 with the release of the *Universal Service Reform; Mobility Fund Notice of Proposed Rulemaking*, 75 FR 67060, Nov. 1, 2010, 75 FR 69374, Nov. 12, 2010, which sought comment on the creation of Mobility Fund Phase I to distribute one-time high-cost universal service support by reverse auction to mobile service providers to build current- and next-generation wireless networks. WT Docket No. 10-208 continued to be used for Mobility Fund Phase I matters and for proceedings addressing issues regarding the provision of ongoing support for 4G LTE through Mobility Fund Phase II. The Commission stated in the *Mobility Fund Phase II Report and Order*, 82 FR 15422, Mar. 28, 2017, that a goal of Mobility Fund Phase II was to “target universal service funding to support the deployment of the highest level of mobile service available today.” In light of the arrival of 5G technology, the Commission adopted the *5G Fund NPRM*, which proposes to provide funds to help close the digital divide and ensure all Americans have access to 5G networks and supersedes the Mobility Fund proceedings.

4. Because no further action is required or contemplated regarding WT Docket No. 10-208, the Commission closes it. Pending matters and statutory obligations regarding Mobility Fund Phase I and Mobility Fund Phase II are transferred to two dockets: GN Docket No. 19-367, and new GN Docket No. 20-104. Pending proceedings regarding Mobility Fund Phase II, including waivers and challenges, are hereby transferred to GN Docket No. 19-367, which is dedicated to the Mobility Fund Phase II Challenge

Process. Section 54.1009(c) of the Commission's rules is revised to require Mobility Fund Phase I annual reports to be filed in GN Docket No. 20-104. All pending Mobility Fund Phase I waivers are hereby transferred to GN Docket No. 20-104.

C. Clarifying Amendments Concerning Office of Economics and Analytics Functions and Delegated Authority

5. In January 2018, the Commission adopted an Order, 83 FR 63073, Dec. 7, 2018, that established the Office of Economics and Analytics and, among other things, generally shifted the functions of the Auctions and Spectrum Access Division in the Wireless Telecommunications Bureau to the Office of Economics and Analytics. The Commission amended its rules to establish the Office of Economics and Analytics' functions and delegated authority and make other conforming rule changes to reflect this new organizational structure. Pursuant to 5 U.S.C. 553(b)(A) with respect to "rules of agency organization, procedure, or practice," the Commission makes certain clarifying amendments to §§ 0.21, 0.131, and 0.271 of its rules concerning the Office of Economics and Analytics' functions and delegated authority, to ensure that these rules reflect the intent of the Commission's Order establishing the Office of Economics and Analytics.

D. Procedural Matters

6. *Paperwork Reduction Act Analysis.* This Order does not contain any new or modified information collection requirements that are subject to the Paperwork Reduction Act of 1995, Pub. L. 104-13. In addition, therefore, it does not contain any new or modified information collection burden for concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107-198, *see* 44 U.S.C. 3506(c)(4).

7. *Congressional Review Act.* The Commission will not send a copy of the Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of agency organization, procedure, or practice that do not "substantially affect the rights or obligations of non-agency parties."

E. Ordering Clauses

8. *It is ordered* that, pursuant to the authority contained in sections 1, 4, 4(i), 5(b), 5(c), 201(b), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 154(i), 155(b), 155(c), 201(b), 214, 254, 303(r), and 403, this Order *is adopted*, and that parts 0 and 54 of the Commission's rules, 47 CFR parts 0 and 54, *are amended* as specified in the Final Rules herein, effective immediately upon publication in the **Federal Register**.

9. *It is further ordered* that, pursuant to the authority contained in sections 154(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(j), the proceeding in WT Docket No. 10-208 *is terminated* and its docket *shall be closed*; all pending proceedings regarding Mobility Fund Phase II in WT Docket No. 10-208, including waivers and challenges, *are hereby transferred* to GN Docket No. 19-367; all Mobility Fund Phase I annual reports shall heretofore be filed in GN Docket No. 20-104; all pending Mobility Fund Phase I waivers in WT Docket No. 10-208 *are hereby transferred* to GN Docket No. 20-104.

List of Subjects

47 CFR Part 0

Classified information, Freedom of information, Government publications, Infants and children, Organization and functions (Government agencies), Postal Service, Privacy, Reporting and recordkeeping requirements, Sunshine Act.

47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, internet, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

FEDERAL COMMUNICATIONS COMMISSION.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 0 and 54 as follows:

PART 0 – COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: 47 U.S.C. 155, 225, unless otherwise noted.

2. Section 0.21 is amended by:

- a. Removing paragraph (m);
- b. Redesignating paragraph (n) as paragraph (m) and revising newly redesignated paragraph (m);
- c. Removing paragraph (o);

- d. Redesignating paragraphs (p) through (u) as paragraphs (n) through (s);
- e. In newly redesignated paragraph (q), adding “of this chapter” at the end of the sentence; and
- f. Adding a new paragraph (t).

The revisions and addition read as follows:

§ 0.21 Functions of the Office.

* * * * *

(m) Serves as the Commission’s principal policy and administrative staff resource with regard to auction design and implementation issues. Jointly with the Wireless Telecommunications Bureau, Media Bureau, Wireline Competition Bureau, and/or other relevant Bureaus and Offices, develops, recommends, and administers policies, programs and rules, and advises the Commission on policy, engineering, and technical matters, concerning auctions of spectrum for wireless telecommunications and broadcast services and uses of competitive bidding to achieve other Commission policy objectives, including universal service support. Administers procurement of auction-related services from outside contractors. Oversees auctions conducted on behalf of the Commission by third parties at the direction of the Commission. Provides policy, administrative, and technical assistance to other Bureaus and Offices on auction issues. Advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in all matters pertaining to auction implementation. These activities include: conducting auctions, policy development and coordination; conducting rulemaking and adjudicatory proceedings, including complaint proceedings for matters not within the responsibility of the Enforcement Bureau; acting on waivers of rules; compliance and enforcement activities for matters not within the responsibility of the Enforcement Bureau; determining resource impacts of existing, planned or recommended Commission activities concerning auctions, and developing and recommending resource deployment priorities. Exercises such authority as may be assigned, delegated, or referred to it by the Commission.

* * * * *

(t) Administers part 1, subparts V and W, of this chapter, including rulemaking.

3. Section 0.131 is amended by revising paragraphs (a) and (c) to read as follows:

§ 0.131 Functions of the Bureau.

* * * * *

(a) Advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, in all matters pertaining to the licensing and regulation of wireless telecommunications, including ancillary operations related to the provision or use of such services; any matters concerning wireless carriers that also affect wireline carriers in cooperation with the Wireline Competition Bureau; and, in cooperation with the Office of Economics and Analytics, all policies, programs, and rules regarding spectrum auctions, and, in cooperation with the Wireline Competition Bureau and the Office of Economics and Analytics, USF mechanisms affecting wireless carriers. These activities include: Policy development and coordination; conducting rulemaking and adjudicatory proceedings, including licensing and complaint proceedings for matters not within the responsibility of the Enforcement Bureau; acting on waivers of rules; acting on applications for service and facility authorizations; compliance and enforcement activities for matters not within the responsibility of the Enforcement Bureau; determining resource impacts of existing, planned or recommended Commission activities concerning wireless telecommunications, and developing and recommending resource deployment priorities.

* * * * *

(c) Serves as a staff resource, in coordination with the Office of Economics and Analytics with regard to the development and implementation of spectrum policy through spectrum auctions. Jointly with the

Office of Economics and Analytics, develops, recommends and administers policies, programs and rules concerning licensing of spectrum for wireless telecommunications through auctions and advises the Commission on policy, engineering, and technical matters relating to auctions of spectrum used for other purposes.

* * * * *

4. Revise § 0.271 to read as follows:

§ 0.271 Authority delegated.

The Chief, Office of Economics and Analytics, is delegated authority to perform all functions and activities described in § 0.21 (and to perform the specified functions set forth in paragraphs (f) through (i) of this section to the extent they fall within the subject matters over which the Office of Economics and Analytics has primary authority under § 0.21), subject to the exceptions and limitations in paragraphs (a) through (e) of this section:

(a) The Chief, Office of Economics and Analytics, shall not have authority to act on notices of proposed rulemaking and of inquiry, final orders in rulemaking proceedings and inquiry proceedings, and reports arising from any of the foregoing except such order involving ministerial conforming amendments to rule parts and notices and orders addressing the detailed procedures for implementation of auctions of spectrum and broadcast services and uses of competitive bidding to achieve other Commission policy objectives, including universal service support.

(b) The Chief, Office of Economics and Analytics, shall not have authority to act on any complaints, petitions, pleadings, requests, or other matters presenting new or novel questions of fact, law, or policy that cannot be resolved under existing precedents and guidelines.

(c) The Chief, Office of Economics and Analytics, shall not have authority to act on any applications for review of actions taken by the Chief, Office of Economics and Analytics pursuant to delegated authority,

except that the Chief may dismiss any such application that does not comply with the filing requirements of § 1.115(d) and (f) of this chapter.

(d) The Chief, Office of Economics and Analytics, shall not have authority to act on any applications that are in hearing status.

(e) The Chief, Office of Economics and Analytics, shall not have authority to impose, reduce or cancel forfeitures pursuant to the Communications Act of 1934, as amended, in amounts of more than \$80,000. Payments for bid withdrawal, default or to prevent unjust enrichment that are imposed pursuant to Section 309(j) of the Communications Act of 1934, as amended, and regulations in this chapter implementing Section 309(j) governing auction authority, are excluded from this restriction.

(f) The Chief, Office of Economics and Analytics, is delegated authority to deny requests for extension of time or to extend the time within which comments may be filed.

(g) The Chief, Office of Economics and Analytics, is authorized to dismiss or deny petitions for rulemaking that are repetitive or moot or that for other reasons plainly do not warrant consideration by the Commission.

(h) The Chief, Office of Economics and Analytics, is authorized to dismiss or deny petitions for reconsideration to the extent permitted by § 1.429(l) of this chapter and to the extent permitted by §1.106 of this chapter.

(i) The Chief, Office of Economics and Analytics, is delegated authority to make nonsubstantive, editorial revisions to the Commission's rules and regulations contained in part 1, subparts Q, V, W, and AA, of this chapter.

5. Section 0.331 is amended by revising paragraph (b) to read as follows:

§ 0.331 Authority delegated.

* * * * *

(b) *Authority concerning forfeitures and penalties.* The Chief, Wireless Telecommunications Bureau, shall not have authority to impose, reduce, or cancel forfeitures pursuant to the Communications Act of 1934, as amended, and imposed under regulations in this chapter in amounts of more than \$80,000 for commercial radio providers and \$20,000 for private radio providers.

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PART 54 – UNIVERSAL SERVICE

6. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, and 1302 unless otherwise noted.

7. Section 54.1009 is amended by revising paragraph (c) to read as follows:

§ 54.1009 Annual reports.

* * * * *

(c) Each annual report shall be submitted to the Office of the Secretary of the Commission, clearly referencing GN Docket No. 20-104; the Administrator; and the relevant state commissions, relevant authority in a U.S. Territory, or Tribal governments, as appropriate.

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